

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

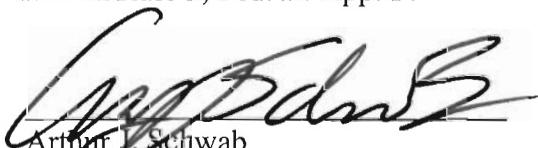
RICHARD KELLY,)
Petitioner,)
)
)
vs.) Civil Action No. 05-584
)
)
SUPERINTENDENT WAKEFIELD, et al.,)
Respondents.)

O R D E R

AND NOW, this 28th day of September, 2005, after the petitioner, Richard Kelly, filed a petition for a writ of habeas corpus, and after an Amended Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and upon consideration of the objections filed by petitioner, and upon independent review of the petition and the record and upon consideration of the Magistrate Judge's Amended Report and Recommendation (Docket No. 14), which is adopted as the opinion of this Court,

IT IS ORDERED that the petition for a writ of habeas corpus filed by petitioner (Docket No. 3) is dismissed and a certificate of appealability is denied for failure to set forth a viable federal claim.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure if the petitioner desires to appeal from this Order he must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.


Arthur J. Schwab
United States District Judge

cc: Richard Kelly
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Honorable Robert C. Mitchell
United States Magistrate Judge